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In re Application of :  
Kraenzler et al. :  
Application No. 10/049,546 : DECISION ON  
PCT No.: PCT/DE01/02024 :  
Int. Filing Date: 25 May 2001 : PETITION UNDER  
Priority Date: 15 June 2000 :  
Atty. Docket No.: 1969 : 37 CFR 1.137(b)  
For: Power Tool With At Least One Handle :  
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This is in response to the "Renewed Petition Under 37 CFR 1.137(b) And Renewed Petition Under 37 CFR 1.47(a)" filed on 12 July 2004.

### DISCUSSION

#### *Petition Under 37 CFR 1.137(b)*

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

In a decision mailed on 10 March 2004, the petition under 37 CFR 1.137(b) filed on 05 June 2003 was dismissed without prejudice because requirement (1) had not been satisfied. In particular, required reply in the form of an acceptable, executed oath or declaration of the inventors had not been filed, as explained in the treatment of the petition under 37 CFR 1.47(a) also appearing in that decision. As discussed *infra*, petitioner has not yet satisfied that requirement in the sense that petitioner has submitted neither an acceptable declaration signed by all of the inventors nor a grantable petition under 37 CFR 1.47. Accordingly, requirement (1) has not been satisfied.

#### *Petition Under 37 CFR 1.47(a)*

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the

missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

In the decision mailed on 10 March 2004, the previous petition under 37 CFR 1.47(a) was dismissed without prejudice because requirement (2) had not been satisfied. Specifically,

Regarding requirement (2), petitioner urges that non-signing joint inventor Franz Schescharck "has steadfastly refused to sign the application papers." However, the evidence currently of record does not clearly establish that this alleged refusal was a refusal to execute an oath or declaration directed to this specific U.S. national stage application, after being presented with the oath or declaration and a copy of the international application. The evidence of communications with Mr. Schescharck suggests has refusal to sign unspecified papers related to Robert Bosch GmbH reference R.38531. However, counsel has not specifically established that the papers Mr. Schescharck is refusing to sign include an oath or declaration. Neither has petitioner clearly established that Mr. Schescharck has been presented with a complete copy of the international application he is being asked to execute. In the absence of specific showings on these points, it would not be appropriate to conclude requirement (2) to have been satisfied.

The instant renewed petition is accompanied by a "Declaration" signed by Mrs. Minder, stating that, in her capacity "as a secretary in the Patent Department of Robert Bosch GmbH," that "the documents which I sent to Mr. Schescharck were a complete copy of the international application relating to PCT/DE01/02024 which is Bosch Ref. R. 38531, as well as the Declaration for signature and dating and return." It is presumed that Mrs. Minder possesses sufficient comprehension of the English language to understand the statements she has subscribed to in this "Declaration;" if this is not the case, counsel is required to notify this Office promptly. In view of Mrs. Minder's declaration, it would now be appropriate to conclude that requirement (2) has been satisfied.

Regarding requirement (3), the decision mailed on 10 March 2004 also dismissed the previous petition under 37 CFR 1.47(a) because the petition "does not include an explicit statement of non-signing joint inventor Franz Schescharck's last known address. Accordingly, requirement (3) has not been satisfied." Counsel still has not provided an explicit statement of Mr. Schescharck's last known address and, therefore, requirement (3) still has not been met.

## **DECISION**

The petition under 37 CFR 1.137 (b) is **DISMISSED**, without prejudice.

The petition under 37 CFR 1.47 (a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)"

and/or "Renewed Petition Under 37 CFR 1.47 (a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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